

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Monday, July 2, 2001

Division One

**A090073 -- The People v. Mflame Damu Mayon.**

The judgment of conviction of carjacking in violation of section 215 is reversed and the finding of a prior felony conviction under sections 667, subdivision (d)(3) and 1170.12, subdivision (b)(3), is stricken. The sentence is vacated and the matter is remanded for resentencing consistent with the views expressed in this opinion. In all other respects, the judgment of conviction is affirmed. Swager, J. We Concur: Stein, Acting P.J.; Marchiano, J. (Not for Publication.)

Division Three

**A087311 -- The People v. George Lincoln Coats.**

The judgment and sentence are reversed. Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A087413 -- Angelique Michaels v. Department of Veterans Affairs.**

The judgment is affirmed. Costs are awarded to the Veterans' Home. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, July 2, 2001 (continued)

Division Five

**A090437 -- Home Builders Association of Northern California v. City of Napa et al.; Napa Valley Community Housing et al. R.P.I.**

Order Modifying Opinion. The Court: Upon the Court's own motion, the opinion filed June 6, 2001, is modified as follows: (See order.) This modification does not change the judgment. Jones, P.J.

Tuesday, July 3, 2001

Division Two

**A094602 -- In re Ashley W. Brionna W., and Porsche a.k.a. Portia W.,  
Persons Coming Under the Juvenile Court Law.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [precluding further challenge to order by petitioner in any subsequent appeal].) Since the section 366.26 hearing is presently scheduled for July 13, 2001, our decision is immediately final as to this court. (Cal. rules of Court, rule 24(d).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A091027 -- The People v. Robert Washington.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A095117 -- Judith Huff v. Department of Motor Vehicles, et al.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A088353 -- Arnai Maxey v. Providian Financial Corporation.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A095437 -- Keyon Ryheem Wilson v. The Superior Court of Contra  
Costa County; The People, R.P.I.**

By the Court: The petition for writ of mandate and the related request for a stay are denied. (McGuinness, P.J. & Parrilli, J. participating.)

Thursday, July 5, 2001 (continued)

Division Two

**A095423 -- In re Paul Charles Currie, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A095243 -- Melinda Conchiglio v. The Superior Court of San Mateo County; Norris & Rossi, LLP et al., R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

**A088366 -- Lanier Worldwide, Inc. v. First Union Baptist Church.**

The trial court abused its discretion in denying First Union's motion to vacate the sister state judgment. We reverse the order denying the motion to vacate the judgment. First Union is awarded its costs on appeal and its fees according to the contract. The matter is remanded to the trial court to determine (continued) the appropriate amount of fees. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Four

**A081463 -- Gladys S. Brewster et al. v. Duane Grummer et al.**

That portion of the order granting the Lynch firm's motion for summary judgment relating to the fourth, fifth, and sixth causes of action in plaintiff's second amended complaint is reversed. Brewster shall recover costs. Sepulveda, J. We Concur: Kay, J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089528 -- The People ex rel. Thomas J. Orloff, as District Attorney, etc., et al. v. Pacific Bell et al.**

Order Modifying Opinion and Denying Rehearing. By the Court: It is ordered that the opinion filed herein on June 5, 2001, be modified in the following particulars: (See order.) The above modification does not effect any change in the judgment. The petition for rehearing is denied. Sepulveda, Acting P.J. (Certified for Publication.)

Thursday, July 5, 2001 (continued)

**A090524 -- Melissa Ann Scarborough, a Minor, etc. et al. v. County of Marin et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Division Five

**A093060 -- In re Domingo M., a Person Coming Under the Juvenile Court Law.**

The order is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, July 9, 2001

Division Two

**A091083 -- The People v. Antoine Lavon Henderson.**

The judgment shall be modified to strike the second restitution fine imposed pursuant to section 1202.4, leaving the originally imposed restitution fine of \$200 intact. The judgment shall be further modified to add a parole revocation fine of \$200 pursuant to section 1202.45. As so modified, the judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A095140 -- Groth Bros. Oldsmobile, Inc. v. The Superior Court of Alameda County; William M. Groth, Jr., R.P.I.**

By the Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

Division Four

**A089795 --The People v. Aurelio Chacon.**

The judgment of conviction is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A090121 -- Gordon Gee et al. v. American Realty & Construction, Inc. et al.**

The summary judgment and the "Order Awarding Attorney Fees" order are affirmed. All other purported appeals are dismissed. Defendants shall recover their costs on appeal. Kay, J. We Concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, July 9, 2001 (continued)

Division Five

**A093170 -- In re Totoalii A., a Person Coming Under the Juvenile Court Law.**

The order redeclaring wardship is modified to reflect 59 days of custody credits. In all other respects, the order is affirmed. The juvenile court is directed to prepare an amended order. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A093941 -- The People v. David Allen Bollinger.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Tuesday, July 10, 2001

Division One

**A092713 -- The People v. Richard Salvador Gomez.**

The concurrent sentence for possession of ammunition is stayed pursuant to section 654. The orders terminating probation and imposing costs of defense are reversed. The trial court is directed to correct the abstract of judgment to reflect the modification of the sentence and to send a corrected copy to the Department of Corrections. In all other respects, the judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A092813 -- America Online, Inc. v. The Superior Court of Alameda County; Al Mendoza, Jr. et al.; Al Mendoza, Jr. et al R.P.I.**

Order Modifying Opinion. By the Court: It is ordered that the opinion herein on June 21, 2001, be modified in the following particulars: (See order.) There is no change in the judgment. Kline, P.J. (Certified for Publication.)

**A095236 -- Pamela Braswell v. The Superior Court of Alameda County; Hugh Douglas et al., R.P.I.**

By the Court: The petition for writ of mandate/prohibition/certiorari/stay is denied. Kline, P.J.

**A089841 -- Keli Cwynar, et al. v. City and County of San Francisco.**

The part of the judgment dismissing plaintiffs' first four causes of action is reversed and this case is remanded to the trial court for further proceedings consistent with this opinion. Plaintiffs are awarded their costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J (Certified for Publication.)



Tuesday, July 10, 2001 (continued)

**A095419 -- IRA Gene Fuller et al. v. The Superior Court of San Francisco County; Chevron U.S.A., Inc., R.P.I.**

By the Court: The petition for writ of mandate/prohibition/certiorari is denied. Kline, P.J.

**A093049 -- In re Joseph H., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A091525 & A092357 -- David Replogle, et al. v. JAMS/Endispute, et al.**

By the Court: It is ordered that the opinion filed herein on June 19, 2001 be modified as follows: (See order.) These modifications do not effect a change in the judgment. The petition for rehearing is denied. Haerle, Acting P.J.

**A088934 -- Sandra G. Musser v. Douglas Provencher et al.**

The judgment is reversed and the matter remanded for further proceedings in accordance with the views set forth herein. Each party shall bear its own costs on this appeal. Kline, P.J. We Concur: Lambden, J., Ruvo, J. (Certified for Publication.)

Division Four

**A089297 -- The People v. Joseph D. Snow.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

**A090951 -- American Overseas Air Freight, Inc. v. 330 Beach Street Investors, LLC et al.**

The order appealed from is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, July 10, 2001 (continued)

**A092801 -- The People v. Kevin S. Howard.**

The order revoking defendant's probation is reversed. Sepulveda, Acting P.J. We Concur: Kay, J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A094969 -- Cindy S. v. The Superior Court of Del Norte County; Del Norte County Department of Health and Social Services, R.P.I.**

The petition for an extraordinary writ is denied on the merits. (See § 366.26, subd. (l).) This decision shall be final immediately. Reardon, Acting P.J., We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Division Five

**A092096 -- Aicco, Inc. et al. v. Insurance Company of North America et al.**

The judgment is reversed. Costs to appellants. Jones, P.J. We Concur: Stevens, J., Simons, J. (Certified for Publication.)

**A092461 -- Pearline Smith v. California Department of Corrections.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A092245 -- David W. Young et al. v. Imperial Banks.**

Summary adjudication is affirmed as to the third cause of action for common law fraud and misrepresentation, but in all other respects the judgment is reversed and remanded to the trial court for further proceedings consistent with this opinion. Plaintiffs shall recover their costs on this appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, July 11, 2001

Division Two

**A095471 -- In re Joseph Alldredge, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A088188, A089476 -- Barbara A. Finnegan v. Carl F. Schrader; West Bay Sanitary District.**

The judgment appealed from in A088188 is affirmed. The order granting attorney fees appealed from in A089476 is reversed, and the case is remanded to the trial court for further proceedings consistent with the views expressed herein. Costs on both appeals are awarded to appellant Finnegan. We further grant appellant Finnegan's request for attorney fees on appeal, the amount to be decided by the trial court. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A095487 -- Stephen Nicklas v. The Superior Court of Contra Costa County; The People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

**A095486 -- In re Duane Schinner, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Three

**A083595 -- Patrick B. Lapin et al. v. Larry Lockshin et al.**

The judgments are affirmed. Insofar as the appeal purports to challenge the award of attorney fees, it is dismissed. Appellants will bear costs of the appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Thursday, July 12, 2001

Division Two

**A092515 -- In re Thomas A. Jr., et al. a Person Coming Under the Juvenile Court Law.**

The order is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A094915 -- Mary S. v. The Superior Court for the County of Contra Costa; Contra Costa County Department of Social Services, R.P.I.**

The petition is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [subsequent challenge by appeal barred]; § 366.26, subd. (1)(1).) Given the nearness of the August 1, 2001 hearing date, our decision is final as to this court immediately (rule 24(d)). Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A094914 -- In re Jarrell W., a Person Coming Under the Juvenile Court Law.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioners is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26. (See § 366.26, subd. (1)(2).) Because the section 366.26 hearing is set for August 6, 2001, our opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24(d).) Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, July 12, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, CA. Present: Haerle, Acting P.J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A086081      The People  
                 v.  
                 Saiyez Ahmed
- A086579      The People  
                 v.  
                 Sam Henry Vaughn, Jr.  
Causes called and argued by Stephen Matchett, counsel for appellant Vaughn and Catherine Rivlin, Deputy Attorney General, counsel for respondent. No appearance was made on behalf of appellant Ahmed. Causes ordered submitted.
- A093389      Shriner's Hospitals for Children  
                 v.  
                 Margarita Geonanga  
Cause called and argued by Farley Tolpen, counsel for appellant and M. Armon Cooper, counsel for respondent. Cause ordered submitted.
- A092251      George Avanesian  
                 v.  
                 Innovative Design Group  
Cause called and argued by David Jay Morgan, counsel for appellant and (telephonically) by Hall Block, counsel for respondent. Counsel for respondent granted 7 days in which to file a supplemental letter brief no longer than 3 double-spaced pages, whereupon cause will be deemed submitted.
- A090325      Aven Cantua, Jr.  
                 v.  
                 Bell Industries, Inc.  
Cause called and argued by Eugene Brown, counsel for appellant and Lloyd LeRoy, counsel for respondent. Cause ordered submitted.
- A088394      The People

v.

Ramon Beltran, Isidor Espinosa  
and Adelmo Beltran

Cause called and argued by Randy Montesano, counsel for appellant Ramon Beltran, Lance Russell, counsel for appellant Isidor Espinosa and Herbert Wilkinson, Deputy Attorney General, counsel for respondent. No appearance was made on behalf of appellant Adelmo Beltran. Cause ordered submitted.

Court recessed until 1:30 p.m.

The court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A089746

The People

v.

Leonard Earl Green and Michael Lorenzo Jones

A089176

The People

v.

West Bunnery, Jr.

Causes called and argued by Barry Karl, counsel for appellant Green, Robert Navarro, counsel for appellant Jones, Gordon Brownell, counsel for appellant Bunnery and Linda Murphy, Deputy Attorney General, counsel for respondent. Causes ordered submitted.

A091132

Irvin S. Taylor

v.

County of Marin

Cause called and argued by Robert Moore and Mike Durkee, counsel for appellants and David Zaltsman, counsel for respondents. Cause ordered submitted.

Thursday, July 12, 2001 (continued)

Division Three

**A090561 -- The People v. Mario Dwayne Griffin et al.**

The judgment is affirmed. Horner, J.\* We Concur: McGuiness, P.J.,  
Corrigan, J. (Certified for Partial Publication.)

\*Judge of the Alameda County Superior Court, assigned by the Chief  
Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, July 12, 2001 (continued)

Division Four

**A091581 -- The People v. Pete Otis Risper.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Division Five

**A089736 -- The People v. Joey Mason.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)



Friday, July 13, 2001

Division One

**A093732 -- In re James M., a Person Coming Under the Juvenile Court Law.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(A) Of the California Rules of Court, the appeal is dismissed. Stein, J.

**A092773 -- County of Solano v. Robin Woo.**

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

**A092242/A092868 -- City of Cotati v. Gene Cashman et al.**

The judgment of dismissal is vacated, as are the awards of attorney fees, costs, and sanctions made to respondents by the trial court. This case is remanded for further proceedings consistent with this opinion. Costs on appeal are awarded to Cotati. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

Division Four

**A090705 -- The People v. Cornelius Ahmal Wigfall.**

The abstract of judgment is ordered modified to reflect 435 days of presentence custody credit and 218 days of presentence conduct credit for a total of 653 days of presentence credit. The corrected abstract shall be transmitted to the Director of the Department of Corrections. In all other respects, the judgment is affirmed. Reardon, Acting P.J. We Concur: Kay, J., Chiantelli, J.\* (Not for Publication.)

Monday, July 16, 2001

Division One

**A093856 -- The People v. Alonzo James Booker.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A093571 -- The People v. Robert Eugene Boyd.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A091286A/A091286B -- The People v. Michelle Mayes et al.**

The motion to suppress properly was denied. The judgment is affirmed. Stein, J. We Concur: Strankman, P.J.,\* Marchiano, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Three

**A093354 -- Richard T. Edwards v. Oakland Unified School District.**

The judgment is affirmed. Horner, J.\* We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090491 -- The People v. Alan Wayne Lee.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A092900 -- Robert Fridrich Posthauer v. Department of Motor Vehicles.**

The judgment is reversed. The trial court is hereby ordered to issue a writ of mandate consistent with the views expressed in this opinion. Respondent to bear costs of appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Monday, July 16, 2001 (continued)

**A088619 -- The People v. Walter Vincent Robbie, Jr.**

By the Court: Submission of the above entitled cause is vacated on the ground that further consideration of the merits of the issues raised on appeal is required. The cause is hereby ordered resubmitted. McGuinness, P.J.

Division Four

**A093173 -- The People v. Timothy Benson Donohue.**

Appellant had been in custody since his arrest on May 19, 2000. Both Appellant and respondent agree that, pursuant to Penal Code sections 4019 and 2900.5, subdivision (a) and (c), the trial court should have awarded appellant 154 days actual time served, plus 77 days good time/work time (if earned), for a total of 231 days credit. The court, however, credited appellant with only 180 days total credits. The judgment of conviction is affirmed. The sentence is vacated and the matter is remanded for resentencing in accordance with the views expressed in this opinion. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Tuesday, July 17, 2001

Division One

**A092915 - In re Francell Elias M., a Person Coming Under the Juvenile Court Law.**

The orders are affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, July 17, 2001

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Strankman, retired Presiding Justice, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution) and Swager, J.; N. Millner, Deputy Clerk; and CHP Officer S. Taylor, Bailiff.

A090548      The People,

v.

Grant Curtis Meyer.

Cause called and argued by T. Osha Newmann, counsel for appellant, and Christopher Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A090876      The People,

v.

Michael John Ramirez.

Cause called and argued by Neil Rosenbaum, counsel for appellant, and Bridget Billeter, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A092410      Elpoint Company, LLC,

v.

Mitchell Robinson, et al.

Cause called and argued by Randal Matthew Barnum, counsel for appellant, and Dennis Leader, counsel for respondent. Cause ordered submitted.

A091642      Jessie Katz, et al.,

v.

County of Humboldt, et al.

Cause called and argued by Richard A. Rothschild, counsel for appellants, and Joyce Stigner, Deputy County Counsel, counsel for respondents. Cause ordered submitted.

A091887

Estate of Lucille Farrer.

George Trochet,

v.

Samuel Foster.

Cause called and argued by Eugene Schneider, counsel for appellant, and George Holland, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, July 17, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Swager, Acting P.J., Strankman, retired Presiding Justice (assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution), and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer S. Taylor, Bailiff.

A091021 Insurance Commissioner of the State of California,  
v.  
Golden Eagle Insurance Company;  
Estate of Jill Rimmer.  
Cause called and argued by Peter N. Molligan, counsel for appellant, and Andrew R. McCloskey, counsel for respondent Golden Eagle. Cause ordered submitted.

At this point in the proceedings, Justice Marchiano left the bench and Justice Stein joined the bench and presided over the remainder of the morning calendar.

A088097 The People,  
v.  
Andrew Peter Martinez.  
Cause called and argued by Barry M. Karl, counsel for appellant, and Pamela Critchfield, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A091620 Linda Lowe,  
v.  
Laidlaw Transit, Inc.  
Cause called and argued by Michael J. Reed, counsel for appellant, and Jeffrey L. Adams, counsel for respondent. Cause ordered submitted.

Court recessed until Wednesday, July 18, 2001 at 9:00 a.m.

Monday, July 17, 2001 (continued)

Division Two

**A095512 -- In re Kyb Fugfugosh, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A089195 -- The People v. Susan Lea Green.**

**A093153 -- In re Susan Lea Green on Habeas Corpus.**

The judgment is reversed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

**A090742 -- Insurance Commissioner of the State of California v.  
Professional Prototype I Insurance Company, Ltd., Raymond A. Galliani, et  
al.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

**A095548 -- In re Gregory Laval Rounds, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A092164 -- Estate of Johanna H. Wagner, Deceased.**

The judgment is reversed with respect to the interest surcharge, the reduction of the statutory fees of Patricia's present counsel, and the surcharge of the costs in contesting the final account, and is affirmed in all other respects. The matter is remanded for the trial court to determine the extent of any injury resulting from Patricia's delays in estate administration. The parties are to bear their own costs on appeal. Horner, J.\* We Concur: McGuiness, P.J., Corrigan, J.  
(Not for Publication.)



Tuesday, July 17, 2001 (continued)

Division Four

**A093224 -- The People v. Eric Crease.**

The judgment of conviction is affirmed. The matter is remanded for a recalculation of appellant's presentence credit to be reflected in an amended abstract of judgment. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A093047 -- In re Paul E., a Person Coming Under the Juvenile Court Law.**

We remand the matter with instructions that the appellant be afforded the option to withdraw his admission. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A090262 -- El Sobrante Valley Legal Defense Fund v. City of Richmond et al.; Damé Construction Company, R.P.I.**

Order Modifying Opinion and Denying Rehearing. The Court. It is ordered that the opinion filed herein on June 18, 2001, be modified as follows: (See order.) These modifications do not change the judgment. The petition for rehearing is denied. Reardon, Acting P.J. (Not for Publication.)

**A090852 -- The People v. Walter Howard White.**

The judgment of conviction is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, July 18, 2001

Division One

**A092561 -- The People v. Richard Anthony Jump.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J.,  
Marchiano, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, July 18, 2001

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P J., Swager, J., and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer S. Taylor, Bailiff.

- A090901      The People,  
                  v.  
                  Foster Shane Gaines.  
Cause called and argued by Katarzyna Kozik, counsel for petitioner, and Christina Kuo, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A091721      The People,  
                  v.  
                  Tony Lynn Jocius.  
Cause called and argued by Janice M. Brickley, counsel for appellant, and Frances M. Dogan, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A093682      Deloria Brunner, et al.,  
                  v.  
                  Interstate Brands Corporation, et al.  
Cause called and argued by Paul Joseph Smoot, counsel for appellants, and Tyler Brown, counsel for respondents. Cause ordered submitted.
- A091220      Joseph Cole, et al.,  
                  v.  
                  California Coastal Commission.  
Cause called and argued by Mark Haddad, counsel for appellant, and Joseph Barbieri, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, July 18, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer S. Taylor, Bailiff.

- A091585      The People,  
                  v.  
                  Gary Neil Lash.  
Cause called and argued by Michael Satris, counsel for appellant, and Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A092980      Nara Nelson, et al.,  
                  v.  
                  Richard Burke, et al.  
Cause called and argued by David A. Smyth, counsel for appellants, and Gary Garfinkle, counsel for respondents. Cause ordered submitted.
- A092834      Saadeh Corporation,  
                  v.  
                  Pacific Towing, et al.  
Cause called and argued by Tony Tanke, counsel for appellants, and Mark R. Mittelman, counsel for respondent. Cause ordered submitted.
- A0921595      The People,  
                  v.  
                  Christopher Robert Donnerson.  
Cause called and argued by Sandra Gillies, counsel for appellant, via teleconference, and Jimmie Johnson, certified law student, counsel for respondent. Cause ordered submitted.

Court adjourned.

Wednesday, July 18, 2001 (continued)

**A089562 -- Jack E. Pelletier v. C. Stephen Casalina et al.**

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J.,\*  
Marchiano, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District,  
assigned by the Chief Justice pursuant to article VI, section 6 of the California  
Constitution.

Division Two

**A091575 -- The People v. Ronnie Lamont Johnson.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.  
(Not for Publication.)

**A091063 -- The People v. Ty L. Truong.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo,  
J. (Certified for Partial Publication.)

Division Three

**A094197 - The People v. Edgar Bruno Jones III.**

In sum, we see no arguable issues for review. (*People v. Wende, Supra*, 25  
Cal.3d 436.) Accordingly, we affirm. McGuiness, P.J. We Concur: Corrigan, J.,  
Parrilli, J. (Not for Publication.)

Division Four

**A085453 -- The People v. Peter A. Martinez.**

Order Modifying Opinion and Denying Rehearing. By the Court: It is  
ordered that the opinion filed herein on June 19, 2001, be modified in the  
following particulars: (See order.) The above modification does not effect any  
change in the judgment. The petition for rehearing is denied. Sepulveda, Acting  
P.J. (Not for Publication.)

Wednesday, July 18, 2001 (continued)

**A087359 -- The People v. Anthony Dasilva.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A087775 -- Wayne A. McFadden v. Robert Marsili et al., L. Richard L. Owen; R.P.I.**

The judgment in favor of McFadden is affirmed. McFadden shall recover his costs on appeal. The award of noneconomic damages to Owen is reversed. The matter is remanded for a limited retrial to determine the amount of punitive damages to be awarded to Owen. The trial court shall also recalculate Owen's economic damages using the proper interest rate in accordance with the views expressed in this opinion. In all other respects the judgment in favor of Owen is affirmed. Owen and the Marsilis shall bear their own costs on appeal. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A093232 -- J. Tolefree Properties v. Bob Fields and Associates.**

The order setting aside the default and default judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Thursday, July 19, 2001

Division One

**A091492 -- The People v. George Emerson Guinn, Jr.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A092903 -- In re Alfonso W., a Person Coming Under the Juvenile Court Law.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A091705 -- In re Loren Ray B., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A090187 -- The People v. Mark Thomas Cofield.**

We affirm. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Friday, July 20, 2001

Division Two

**A091147 -- In re Jojay J., a Person Coming Under the Juvenile Court Law.**

Therefore, we conclude that the trial court's denial of appellant's motion to suppress his confession was correct. The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A092808 -- Law Offices of Walter K. Dods et al. v. Monroe Insurance Brokerage, Inc.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A086332 -- Jennifer L. Moses et al. v. Ford Motor Company et al.**

The judgment is reversed except as to the special verdict against Suburban Ford. Costs on appeal to appellants. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A091860 -- Trans-Action Commercial Investors, LTD., et al. v. Ivan M. Gold et al.**

The judgment is affirmed. Gold shall recover its costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A093717 -- The People v. Rolando B. Bayona**

The judgment and sentence imposed are affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)



Friday, July 20, 2001 (continued)

**A089355 -- The People v. Susan N. Miller.**

The judgment is affirmed. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A091210 -- The People v. Richard Howard Hughes.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A093225 -- The People v. David Lee Price.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A090829 -- The People v. Johnny Lee Sloan, Jr.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, July 20, 2001 (continued)

**A090844 -- The People v. Salvador Contreras Mendez.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

Monday, July 23, 2001

Division One

**A091588 -- The People v. Lance Ernest Laumann.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A088557 -- The People v. Michael John Mendez.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Three

**A089912 and A090291 -- Johnithan R. Guild v. Gerald N. Hill.**

The judgment is affirmed. Appellant shall bear respondent's costs on appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A089555 -- The Housing Group et al. v. United National Insurance Company et al.** The partial judgment is reversed, and the trial court is directed to dismiss the action. Each party to bear its own costs. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Certified for Publication.)

Tuesday, July 24, 2001

Division One

**A093194 -- The People v. Reimuindo Lopez Duran.**

The order revoking and then reinstating probation is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A091721 -- The People v. Tony Lynn Jocius.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A093698 -- Kneeland School District v. Frank Fulton et al.**

To summarize, the limited preliminary injunction granted by the trial court was not an abuse of discretion. The order is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A092980 -- Nara Nelson v. Thomas F. Camp; Carl Nelson.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A093094 -- In re Kanuri Surgury Qawl, on Habeas Corpus.**

Accordingly, respondent, Medical Director of Napa State Hospital, is directed to immediately refrain from administering psychotropic drugs to petitioner absent a judicial determination of his lack of capacity to refuse the treatment. In all other respects, the petition for writ of habeas corpus is denied. Swager, J. We Concur: Strankman, P.J.,\* Marchiano, J. (Certified for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, July 24, 2001 (continued)

Division Two

**A088455 -- The People v. Sonny Ray Hardaway.**

**A092541 -- In re Sonny Ray Hardaway, on Habeas Corpus.**

The judgment challenged by the appeal (A088455) is affirmed; the petition for writ of habeas corpus (A092541) is denied. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A095571 -- In re Jay Shawn Johnson.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Three

**A090715 -- Ablion River Watershed Protection Association, et al. v. California Department of Forestry & Fire Protection, et al. Mendocino Redwood Company, LLC, et al.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A093263 -- In re Arissa A., a Person Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Sherman A. et al.**

The order of the juvenile court, finding Arissa adoptable and terminating parental rights is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A089452 -- The People v. Kevin Jones.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A088415 -- The People v. Jeanyne Lynn Lotti.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Tuesday, July 24, 2001 (continued)

**A092505 -- In re the Marriage of Mary Ann and Michael Lorenzatti.**

The judgment is affirmed. Mary Ann to bear costs of appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A091452 -- Round Valley Indian Tribes v. Carlino Bettega.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A093833 -- The People v. Leroy Maurice Shipley.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

July 24, 2001 (continued)

Division Four

**A090609 -- The People v. Faustino Perez.**

The judgment is affirmed. Chiantelli, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090989 -- The People v. Christopher Francisco Posey.**

The judgment is modified by striking the \$2,300 restitution order. As so modified, the judgment is affirmed. The clerk of the trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections. Kay, J. We Concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A092196 -- The People v. Dennis Paul Sapp.**

The order of commitment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A093692 -- Peter Hendrickson Bice v. Jan Dempsey et al.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A093268 -- In re Antoinette F., a Person Coming Under the Juvenile Court Law. The People v. Antoinette F.**

The order adjudging defendant a ward of the court is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, July 25, 2001

Division One

**A093682 -- Deloria Brunner et al. v. Interstate Brands Corporation.**

The judgment and order denying attorneys' fees are affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A091595 -- The People v. Christopher R. Donnerson.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A091887 -- Estate of Lucille Farrer, Deceased. George Trochet et al. v. Samuel Foster et al.**

The judgment is affirmed. Marchiano, J. We Concur: Strankman, P.J.,\* Stein, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090901 -- The People v. Foster Shane Gaines.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A091620 -- Linda Lowe v. Laidlaw Transit, Inc.**

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J.,\* Stein, Acting P.J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A092181 -- In re Jamal M., a Person Coming Under the Juvenile Court Law. The People v. Jamal M.**

The dispositional order of the juvenile court is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)



Wednesday, July 25, 2001 (continued)

**A088097 -- The People v. Andrew Peter Martinez.**

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J.,\*  
Stein, Acting P.J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District,  
assigned by the Chief Justice pursuant to article VI, section 6 of the California  
Constitution.

**A090548 -- The People v. Grant Curtis Meyer.**

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J.,\*  
Marchiano, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District,  
assigned by the Chief Justice pursuant to article VI, section 6 of the California  
Constitution.

Wednesday, July 25, 2001 (continued)

**A090876 -- The People v. Michael Ramirez.**

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J.,\*  
Marchiano, J. (Certified for Publication.)

Division Two

**A093924 -- Arlene Robertson v. The Superior Court of Marin County;  
Peter S. Brooks, R.P.I.**

Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order overruling petitioner's demurrer to the second amended complaint and to enter an order sustaining that demurrer. We leave to the trial court to determine, in the first instance, whether the demurrer should be sustained with or without leave to amend. Costs are awarded to petitioner. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

Division Three

**A090802 -- The People v. Armando Fernandez.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J.,  
Parrilli, J. (Not for Publication.)

**A092450 -- The People v. Jacob Wayne Hutchins.**

The abstract of judgment is ordered modified to strike the two-year enhancement imposed pursuant to former section 186.22, subdivision (b)(1), and to order that appellant not be paroled until he has served a minimum of 15 calendar years. The cause is remanded for the calculation and award of presentence conduct credit in accordance with the law in effect at the time of the offenses. In all other respects, the judgment is affirmed. McGuiness, J. We Concur: Corrigan, J., Parrilli, J. (Certified for Partial Publication.)

**A093518 -- The People v. Andrea Renee Perry.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J.,  
Parrilli, J. (Not for Publication.)

Wednesday, July 25, 2001 (continued)

**A093211 -- The People v. Randy L. Stroup.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A087774 -- Estate of Myrtle L. Towle, Deceased, Patricia Olcomendy et al. v. Gerald F. Kelleher.**

**A088053 -- Estate of Myrtle L. Towle, Deceased, Jeanne Schwarz et al. v. Gerald F. Kelleher.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Wednesday, July 25, 2001 (continued)

Division Four

**A089035 -- The People v. Angelette Renee Guyton et al.**

We affirm the court-ordered restitution in the amount of \$20,300 as to Bell and Guyton. We reverse the order setting the restitution fine as to Bell and remand for reconsideration. Reardon, Acting P.J. We Concur: Sepulveda, J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A092737 -- In re Annalisa V., et al., a Persons Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Albert V.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A091475 -- The People v. Freddie Wortham.**

The matter is remanded to the trial court to correct the abstract of judgment by deleting the parenthetical references to concurrent five-year enhancements. The corrected abstract shall be transmitted to the Director of the Department of Corrections. The judgment is affirmed. Chiantelli, J.\* We Concur: Sepulveda, Acting P.J., Kay, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, July 25, 2001 (continued)

Division Five

**A092862 -- In re the Marriage of Garry Carter and Wendy Neustrup.**

The orders denying the request for a modification of child support and for new trial are affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, July 26, 2001

Division One

**A095478 -- John Nady v. Alan Wofsy.**

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 7-8-01, the appeal is dismissed. Stein, Acting P.J.

**A092410 -- Elpoint Company, LLC v. Mitchell Robinson et al.**

The order denying the motion to vacate, and awarding attorneys fees, is affirmed. Respondent is entitled to costs on appeal. Stein, J. We Concur: Strankman, P.J.\* Marchiano, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Two

**A092251 -- George Avanesian et al. v. Innovative Design Group.**

The order sustaining respondent's demurrer without leave to amend is reversed and the case is remanded for further proceedings. Each party is to bear their own costs on appeal. Ruvo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A092769 -- California Contractors Alliance Corporation, Inc. v. Contra Costa County et al.; Communities For A Better Environment, et al.**

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A090627 -- The People v. Charles Willard Harrington.**

The judgment is affirmed. Ruvo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Thursday, July 26, 2001 (continued)

**A093652 -- Franz Koller v. James Paul Green.**

The judgment is affirmed. Respondent shall recover his costs on this appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A09560 2 -- Rizalina Abellan v. The Superior Court of the San Francisco County; Roseller Abellan, R.P.I.**

By the Court: The petition for writ of mandate/prohibition/supersedeas is denied. Kline, P.J.

**A095595 -- In re Curtis Carter, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied without prejudice to petitioner seeking the relief in this court after the completion of the habeas proceedings in the superior court. Kline, P.J.

Division Three

**A086726 -- Marc M. Andaya v. City and County of San Francisco.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Horner, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, July 26, 2001 (continued)

**A089734 -- Alex De La Campa v. G.R.M., Inc., et al.**

The judgment is affirmed. Defendants G.R.M., Inc. doing business as Port Terminal Transport, also known as Commercial Carriers, Thomas Quinn, and Jon Stein shall recover their costs on appeal. Defendants' motion for sanctions is denied. Parrilli, J. We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A095201 -- Yama E. v. The Superior Court of Solano County; Solano County Department of Health and Social Services, R.P.I.**

**A095202 -- Ronald E. v. The Superior Court of Solano County; Solano County Department of Health and Social Services, R.P.I.**

The Court: By order of the court, case numbers A095201 and A095202 are consolidated for purposes of review and decision. Counsel for all parties are directed to list both appellate case numbers on all future pleadings. McGuiness, P.J.

**A092189 -- In re Shanice R. & Cecil Sean R., a Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Sheronda M.**

The order of the juvenile court is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Horner, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Four

**A091633 -- The People, v. Ronell Lee Isaac**

The judgment is affirmed. Reardon, Acting P.J. We concur: Sepulveda, J., Kay, J. (Not for Publication.)



Friday, July 27, 2001

Division One

**A093434 -- John Donald Hopkins v. Floyd Squires III, et al.**

By the Court: This court having been informed that the above-captioned matter has been settled and asking this court to vacate oral argument appearance scheduled for August 2, 2001 and to dismiss the entire action is granted. The clerk of this court is directed to issue the remittitur forthwith. Marchiano, Acting P.J.

**A091585 -- The People v. Gary Niel Lash.**

Accordingly, the sentence must be vacated and the case remanded for resentencing. In all other respects, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A095551 -- Certain Underwriters at Lloyd's et al. v. The Superior Court of San Francisco County; Gatx Capital Corporation et al., R.P.I.**

By the Court: The petition for writ of mandate is denied. Kline, P.J.

**A090594 -- Shandra Sheard v. Bank of America.**

The court did not err in granting summary judgment for respondents. The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A089174 -- The People v. Bennison Noveda Flores.**

The judgment is reversed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, July 27, 2001 (continued)

Division Three

**A092536 -- J.B. v. Planned Parenthood Golden Gate, et al.**

The order imposing sanctions against PPGG and Lynne Stocker is affirmed. Insofar as the appeal purports to challenge the remainder of the discovery order, it is dismissed. Respondent's request for sanctions for a frivolous appeal is denied. (*In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 650-651.) Appellants to bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A091712 -- The People v. David A.**

The order is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A092881 -- In re Sabra B., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Edward. B.**

The termination order is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Monday, July 30, 2001

Division One

**A095295 -- Arvind Balu v. The Superior Court of Lake County; The People, R.P.I.**

By the Court:\* We notified the parties that we might choose to act by issuing our peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 180.) No useful purpose would be served by issuance of an alternative writ and oral argument. (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1242.)

Therefore, let a peremptory writ of mandate issue commanding the Lake County Superior Court to vacate its order resentencing Arvind Balu to 12 years in state prison, to instead resentence him only after holding a full resentencing hearing.

The stay previously imposed shall remain in effect until the remittitur issues. This opinion is final as to this court immediately.

\*Before Stein, Acting P.J., Swager, J., and Marchiano, J.

**A093185 -- The People v. Karen Lynn Jurling-DIB.**

The judgment is affirmed. The matter is remanded to the trial court to determine the rate at which appellant's presentence credit should be applied to the payment of her restitution fine. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A093368 -- The People v. Anita M. McMaster.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A092834 -- Saadeh Corporation v. Pacific Towing et al.**

The order denying relief under Code of Civil Procedure section 473 is reversed and the case remanded for further proceedings consistent with this opinion. Costs are awarded to appellant. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A088977 -- The People v. Danny Wimbley.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Monday, July 30, 2001 (continued)

Division Two

**A093141 -- Donzel Rudolph v. J. Harley.**

The judgment of dismissal is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A091468 -- Ivan Alvarez et al. v. Western Insulation, Inc.**

The order of the trial court is affirmed. Western shall bear the costs of this appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A090170 -- The People v. Lee Curtis Brown.**

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A091352 -- Allan Cobb et al. v. St. Francis Methodist Church et al.**

The judgment of dismissal is reversed. Plaintiffs shall recover their costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A092736 -- In re Ariyanna M-T., a Person Coming Under the Juvenile Court Law. Contra Costa Social Service Department v. Bryant T.**

By the Court: The petition for rehearing is granted. McGuinness, P.J.

**A093201 -- The People v. Erick Shawn MacCallum.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Monday, July 30, 2001 (continued)

**A078462 -- The People v. Lawrence Adam Reeves.**

The judgment is modified to reduce appellant's conviction from attempted robbery to attempted theft and to stay the one-year sentence enhancement for great bodily injury applied to the assault conviction in the Debra E. case (count 25). In all other respects, the judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Horner, J.\* (Certified for Publication.)

\*Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A085590 -- The People v. Kevin Deroi Sawyer.**

The judgment and sentence are affirmed in all respects. Horner, J.\* We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A083989 -- The People v. Tom Thompson.**

The determination of defendant's maximum term of commitment is vacated. The matter is remanded for a retrial on the priors with an ensuing commitment hearing. The judgment is affirmed in all other respects. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

**A090956 -- Joseph Mendez et al. v. Theresa Pavlick.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A091092 -- The People v. Sioeli Ponitini.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Monday, July 30, 2001 (continued)

**A093828 -- The People v. Danny Eugene Roberson.**

The order revoking probation and imposing appellant's previously stayed prison term is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, July 31, 2001

Division One

**A091799 -- In re Donald F. and Kara F., Persons Coming Under the Juvenile Court Law. Contra Costa County Department of Social Services v. Ronald F.**

The dispositional order of juvenile court is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A093336 -- David Greninger v. Bob Mannering et al.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A093816 -- The People v. Almjermyn Tyler.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Stein, Acting P.J.

**A091630 - The People v. David Williams.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A086081/A086579 -- The People v. Saiyez Ahmed et al.**

**A095452 --In re Sam Henry Vaughn, Jr. on Habeas Corpus**

The judgment on appeal (A086081 & A086579) are affirmed. The petition for writ of habeas corpus (A095452) is denied. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A095691 -- In re Jeffrey Anthony Franklin, on Habeas Corpus.,**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Tuesday, July 31, 2001 (continued)

**A092188/A093477 -- In re Nicholas H., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Kimberly H.**

The juvenile court's August 2, 2000, dispositional order and its October 6, 2000, six month review order are reversed to the extent that they implement the court's erroneous finding that the presumption that Thomas is Nicholas's father was not rebutted. This case is remanded to the juvenile court for further proceedings consistent with this opinion. Costs on appeal are awarded to appellant. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Partial Publication.)

**A089938 -- The People v. Matt Andrew Tavres.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A089733 -- The People v. John W. Acridge.**

**A092990 -- In re John W. Acridge.**

The judgment is affirmed. The habeas corpus petition is denied. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A091495 -- The People v. Dominic Richard Jones.**

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A093102 -- The People v. Lillie Faye Timmons.**

The condition of probation prohibiting appellant's possession of firearms, dangerous/deadly weapons, or ammunition is stricken. The judgment is otherwise affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)



Tuesday, July 31, 2001 (continued)

Division Four

**A093288 -- The People v. Alexis Lynn Farnham.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, J., Kay, J.  
(Not for Publication.)

**A094667 -- Royce Ford, Jr. v. The Superior Court of Alameda County;  
The People, R.P.I.**

The petition for writ of mandate and/or prohibition is denied, and the order staying further proceedings is vacated. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)

Division Five

**A092819 -- Alfred Efren Valverde et al. v. California Department of  
Real Estate.**

The portion of the judgment in which the trial court ruled Valverde and Delay's conduct in the underlying transaction did not constitute fraud or dishonest conduct is reversed. The portion of the judgment in which the court ruled Valverde and Delay's conduct constituted negligence is affirmed. The matter is remanded to the trial court with instructions to enter a new judgment denying the petition for a writ of mandate in its entirety. Costs are awarded to DRE. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)